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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-27

Legistar #: 20140762

Board of Zoning Appeals Hearing: Monday, July 28, 2014 – 6:00 p.m.

Property Owner: Judith A. Stegall  
1067 Longwood Drive  
Marietta, GA 30008

Address: 1067 Longwood Drive

Land Lot: 00780 District: 17 Parcel: 0430

Council Ward: 2B Existing Zoning: R2 (Single-Family Residential (2 units/acre))

### Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow a fence to be constructed within 2' of a public right of way. [*§710.04 (D.1)*]
2. Variance to increase the allowable height for a fence to 8.' [*§710.04 (D.1 & D.2)*]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

### Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**1067 Longwood Drive – Powder Springs Street frontage**



**1067 Longwood Drive – Powder Springs Street frontage**



**1067 Longwood Drive – Powder Springs Street frontage**

**Recommended Action:**

**Approval.** The applicant, Judith A. Stegall, is requesting variances in order to construct a fence along Powder Springs Street. Her property is located at 1067 Longwood Drive, which is at the corner of Longwood Drive and Powder Springs Street, and is zoned R-2 (Single Family Residential – 2 units/acre). All of the adjacent properties are also zoned R-2 and contain single family residences. The applicant would like to reconstruct a new fence, taller than what code allows, along her side property line against Powder Springs Street.

The fence that was previously along this property line, noted in the application materials as chain link, was removed during the construction of a multi-use trail along Powder Springs Street. The trail/sidewalk that has been constructed is at a higher elevation than the applicant's property. The city is also constructing a 42" wrought iron fence at the top of the wall (ranging from 1' to 8' tall) holding up the new trail/sidewalk. However, the applicant wishes to construct a new wooden fence, 8' in height at the base of the wall. Although it is unclear how or if the new fence would shield the applicant's property in any way, most of the new fence would not be visible from Powder Springs Street.

The Public Works Department has expressed concern that, if the fence is constructed, trash and debris strewn from the trail will collect in the area between the wall and the applicant's fence. They have requested that, if the fence is constructed, enough space be left between the fence and the wall so that it may be maintained.

There have been four (4) cases in which variances have been granted to allow fences up to 8 ft. in height, as described below:



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- **V2011-06: Kennesaw Avenue** **March 28, 2011**
    - (1) Variance to increase the maximum height of a fence within a yard fronting a public street from 4 ft. to 6 ft. and
    - (2) Variance to increase the maximum height of a fence within a side yard between the street and the front edge of the house from 4 ft. to 6 ft.
  - **V2011-07: 651 St. Anne's Road** **March 28, 2011**
    - (1) Variance to allow an 8 ft. tall wooden fence along the side yard fronting a public/private street; and
    - (2) Variance to allow a wooden fence to be within 2 feet of the public right-of-way.
  - **V2011-08: 213 Maxwell Avenue** **April 25, 2011**
    - (1) Variance to allow an 8' tall wooden fence along the yard fronting a public/private street;
    - (2) Variance to allow an 8 ft. tall wooden fence along the side yard fronting a public/private street; and
    - (3) Variance to allow a wooden fence to be within 2 feet of the public right of way
  - **V2012-13 235 South Avenue** **April 30, 2012**
    - (1) Variance to increase the height of a wooden fence from 4 ft. to 6 ft. along the north side property line.
    - (2) Variance to reduce the setback requirement from 2 ft. to 0 ft. from the public right of way.
  - **V2012-14: 1285 Cobb Parkway North** **April 30, 2012**
    - (1) Variance to increase the allowable height of a fence from 8' to 10'.
  - **V2012-45: 295 Vance Circle** **November 26, 2012**
    - (1) Variance to increase the maximum height of a fence within a yard fronting a public street from 6' to 8.'

Since a portion of the fence will not be visible from Powder Springs Street, the fence will not adversely impact the surrounding neighborhood or community, and the previous fence was removed because of a City project, **Staff recommends approval of the variances to allow the fence to be constructed in the previous location (less than 2 ft. from the right of way line) and at a height of 8 ft.**